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99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 99-479
Part 1

H.R. 4079

ORIGINAL

# MAKING ADJUSTMENTS IN THE FARM COMMODITY PROGRAMS, AND FOR OTHER PURPOSES

MARCH 3, 1986.—Ordered to be printed

Mr. DE LA GARZA, from the Committee on Agriculture, submitted the following

## REPORT

[To accompany H.R. 4079]

The Committee on Agriculture, to whom was referred the bill (H.R. 4079) making adjustments in the farm commodity programs, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Farm Programs Adjustment Act of 1986".

### NONPROGRAM CROP AMENDMENTS

Sec. 2. (a) This section may be cited as the "Nonprogram Crop Amendments Act of 1986".

(b) Section 107D(c)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (C) and inserting in lieu thereof, in each place, "(except as provided in subparagraph (K))";

(2) striking out the last sentence of clause (iii) of subparagraph (C) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses except as provided in subparagraph (K).''; and

(3) striking out subparagraph (K) and inserting in lieu thereof the following: "(K)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (C) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this Act), subject to the provisions of the following sen-

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tence and clauses (ii) and (iii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and

"(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material; to the long-term benefit of United States industry.

"(ii) Notwithstanding the foregoing provision of this subparagraph, with respect to any producer of the 1986 crop of wheat who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted wheat acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crop for harvest in 1986 on such producer's permitted wheat acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of wheat. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for a waiver under this clause shall repay immediately the amount of the payment for such crop received under subparagraph (C), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be addition to any other penalty that may be imposed under any other provision of law.

"(iii) In prescribing terms and conditions governing grazing, as provided for under this subparagraph, the Secretary shall take into consideration practices permitted by the Department of Agriculture, under the programs for the 1985 and previous crops of wheat, with respect to grazing on acreage planted to wheat prior to the disposition date for the crop involved.".

(c) Section 105C(c)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B) and inserting in lieu of thereof, in each place, "(except as provided in subparagraph (I)";

(2) striking out the last sentence of clause (iii) of subparagraph (B) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses except as provided in subparagraph (I).''; and

(3) striking out subparagraph (I) and inserting in lieu thereof the following:

"(I)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being improted, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this Act), subject to the provisions of the following sentence and clause (ii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support programs and will not affect farm incomes adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and

"(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

"(ii) Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of feed grains who, prior to February 19, 1986,

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planted or contracted to plant a portion of the producer's permitted feed grain acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crops for harvest in 1986 on such producer's permitted feed grain acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of feed grains. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for a waiver under this clause shall repay immediately the amount of the payment for such crop received under subparagraph (B), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be in addition to any other penalty that may be imposed under any other provision of law.".

(d) Section 103A(c)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B) and inserting in lieu thereof, in each place, "(except as provided in subparagraph (G))";

(2) striking out the last sentence of clause (iii) of subparagraph (B) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses except as provided in subparagraph (G).''; and

(3) striking out subparagraph (G) and inserting in lieu thereof the following:

"(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this Act, subject to the provisions of the following sentence and clause (ii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and

"(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

"(ii) Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of upland cotton who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted upland cotton acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crops for harvest in 1986 on such producer's permitted upland cotton acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of upland cotton. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for a waiver under this clause shall repay immediately the amount of any payment for such crop received under subparagraph (B), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be in addition to any other penalty that may be imposed under any other provision of law.".

(e) Section 101A(c)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B) and inserting in lieu thereof, in each place, "(except as provided in subparagraph (G))";

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(2) striking out the last sentence of clause (iii) of subparagraph (B) and inserting in lieu thereof the following: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses except as provided in subparagraph (G)."; and

(3) striking out subparagraph (G) and inserting in lieu thereof the following:

"(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this Act), subject to the provisions of the following sentence and clause (ii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and

"(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

"(ii) Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of rice who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted rice acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crops for harvest in 1986 on such producer's permitted rice acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of rice. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for a waiver under this clause shall repay immediately the amount of any payment for such crop received under subparagraph (B), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be in addition to any other penalty that may be imposed under any other provision of law.".

PRIOR PLANTING OPTION FOR 1986 CROP OF WHEAT

SEC. 3. Section 107D(f)(5)(B)(i)(I) of the Agricultural Act of 1949 is amended by striking out "10 percent" and inserting in lieu thereof "5 percent or 10 percent (at the option of the producer)".

PERIOD FOR RECEIVING PRODUCER OFFERS TO TERMINATE MILK PRODUCTION

SEC. 4. Section 201(d)(3)(A)(ii) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "In carrying out the milk production termination program, the Secretary shall receive and consider all offers submitted to the Secretary before April 1, 1986, by producers who seek to enter into contracts under the program.".

USE OF MARKETING HISTORY UNDER MILK PRODUCTION TERMINATION PROGRAM

SEC. 5.(a) Section 201(d)(3)(A)(v) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "For purposes of this subparagraph, a producer's marketing history shall be—

"(I) in the case of any producer who participated in the milk diversion program under this paragraph as in effect before the date of enactment of the Food Security Act of 1985, either the marketing history chosen by such producer under such diversion program but without counting twice the January through March quarter of any year, or the marketings of milk by such producer for com-

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mercial use during calendar year 1985, whichever such producer chooses for the purpose of participating in the milk production termination program under this subparagraph; and

"(II) in the case of any other producer, the marketings of milk by such producer for commercial use either during the 12-month period beginning July, 1984, or during calendar year 1985, whichever quantity is less.

For purposes of evaluating each offer by a producer to enter into a contract for payments under this subparagraph, and in determining the amount of payment due to a producer under any such contract to the extent such payment is based on marketing history, the Secretary may not take into consideration any marketings of milk other than the marketing history of such producer as specified in the preceding sentence.".

(b) The amendment made by subsection (a) shall take effect on December 23, 1985.

DAIRY PRODUCTION BASE REDUCTIONS

SEC. 6. Section 201(d)(3)(A) of the Agricultural Act of 1949 is amended by adding at the end thereof the following:

"(viii) In determining whether to make reductions in a milk producer's dairy production base for the purposes of the milk production termination program under this subparagraph, the Secretary may not consider cattle transferred by the producer, during the period beginning January 1, 1986, and ending on the date the producer enters into a contract to participate in the program, as dairy cattle if such cattle are the progeny of dairy and beef cattle and are intended for beef production or other purposes not related to milk production. The Secretary shall prescribe such regulations as are necessary to allow producers, for the purposes of this clause, to provide evidence to establish that cattle are intended for beef production or other purposes not related to milk production.".

Amend the title so as to read:

A bill to make adjustments in the farm commodity programs, and for other purposes.

## BRIEF EXPLANATION

H.R. 4079 would amend the Agricultural Act of 1949, as amended by the Food Security Act of 1985, to restrict the authority for wheat, feed grain, upland cotton, and rice producers to plant nonprogram crops on certain permitted acres not planted to program crops. The bill would authorize the Secretary of Agriculture to permit producers to grow nonprogram crops on the underplanted acres only under certain conditions.

H.R. 4079 would also amend the Agricultural Act of 1949 to allow certain producers of the 1986 crop of winter wheat to chose between a 5 or 10 percent paid acreage reduction option.

Provisions of the bill would also make changes in the dairy program established under the Food Security Act of 1985. Specifically, the bill would extend the signup period, and define marketing history for the purpose of evaluating bids submitted by producers and other purposes, under the milk production termination program. In addition, the bill would restrict the Secretary from considering certain cattle cross-bred for beef production in determining whether to reduce the dairy production base of producers who submit bids under the production termination program.

## PURPOSE AND NEED

### REVISION OF UNDERPLANTING RULES

The Food Security Act of 1985 provides, with respect to the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice, that whenever an acreage limitation program is in effect for a crop

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of these commodities, producers who plant at least 50 percent of their permitted acreage of the crop will be eligible to receive at least 92 percent of the deficiency payment otherwise available to them. Further, if at least 50 percent of the permitted acreage is planted to the crop in question, the remaining underplanted acres may be devoted to the production of nonprogram crops, or if the underplanted acres are not devoted to the production of nonprogram crops, the underplanted acres must be devoted to conserving uses. The practical effect of this provision is to permit producers to devote a portion of their permitted crop acreage equal to more than 8 percent of that crop base to conservation uses or nonprogram crops and still receive deficiency payments on these acres as though they were planted to a program crop.

Under preexisting law, producers who underplanted their permitted acreage would have their deficiency payments reduced accordingly. This policy was changed in the 1985 Act in order to deemphasize program benefits as production incentives and to encourage producers to shift from the traditional program crops that are in chronic surplus to nonprogram crops that are less likely to be in oversupply.

However, nonprogram crop producers now express concern over the new nonprogram crop underseeding provision because it discriminates against their economic interests. These nonprogram crop producers argue that it is unfair for Government policy to be directed to benefit one class of producers (program crop producers) at the expense of other producers who typically don't receive any Federal support. They say it is not fair for nonprogram crop producers to share the overproduction adjustment costs of program crop producers unless nonprogram crop producers receive equal income compensation. Since such compensation is not currently available, and appears unlikely in the future, the nonprogram crop producers are asking that the 1985 law be amended so that nonprogram crops can only be planted on underseeded program acres when such production does not adversely affect the producers of the nonprogram crops.

Specifically, H.R. 4079 provides that the Secretary of Agriculture must require the underseeded acres be devoted to conservation uses unless the Secretary decides that these acres may be planted to designated nonprogram crops. However, the Secretary can only permit planting of designated nonprogram crops if it would not increase the cost of the price support programs, or affect farm income adversely. Under such authority, nonprogram crop producers would be protected from the adverse economic impact of overproduction of their commodity, while at the same time, the Secretary would continue to have the authority to allow the planting of designated nonprogram crops on the underseeded acres if the supplies of that particular crop are short or if they are needed to supply raw materials for nonindustrial uses.

### PRIOR PLANTING OPTION FOR THE 1986 CROP OF WHEAT

The bill includes a provision to allow certain producers of the 1986 crop of wheat a 5 or 10 percent diversion option. Because the 1985 farm bill was not completed when many farmers were plant-

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ing their 1986 crops of winter wheat, they now find themselves disadvantaged as a result. Moreover, these producers assumed a 30 percent set-aside based on the previous year's program.

However, under the Food Security Act of 1985, use of a 30 percent acreage reduction would require a producer to forgo the paid diversion authorized by the law, or plow up the 5 percent overage. The Committee believes it is fair to allow these producers to adapt their current practices to the 1985 program.

### USE OF MARKETING HISTORY IN EVALUATING BIDS UNDER MILK PRODUCTION TERMINIATION PROGRAM

Section 201(d)(3)(A) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985, establishes a milk production termination program that is to be carried out by the Secretary of Agriculture. However, the law does not define marketing history for the purposes of the program. The Secretary has announced that, for the purposes of this program, the marketing history for all producers shall be the marketings of milk by the producer for commercial use either during the 12-month period beginning July 1984 or during calendar year 1985, whichever is less. The Committee believes this definition of marketing history works an extreme hardship on producers who participated in the previous diversion program which was in effect in 1984 and 1985, and these producers should not be penalized for having participated in the diversion program. Accordingly, the bill would permit such producers to use the marketing history that was used in the previous diversion program or their milk marketings for calendar year 1985.

### PERIOD FOR RECEIVING PRODUCERS OFFERS TO TERMINATE MILK PRODUCTION

Section 201(d)(3)(A) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985, establishes the milk production termination program, which is to be carried out by the Secretary of Agriculture over an 18-month period beginning on April 1, 1986. The Secretary of Agriculture has announced that the period for receiving producers' offers to terminate their production under the program will expire on March 7, 1986. However, implementing regulations have not yet been promulgated by the Department of Agriculture. Dairy producers should not be forced to enter into contracts with the Department of Agriculture prior to publication of the regulations. Accordingly, the bill will extend the sign-up period, for dairy farmers who wish to submit offers, until March 31, 1986. This additional signup period will give the Department of Agriculture the opportunity to publish regulations for the program and allow producers an adequate time to review the regulations.

### CROSS-BRED CATTLE USED FOR NON-DAIRY PURPOSES

The bill would make an additional technical change in the dairy production termination program that was approved as part of the Food Security Act of 1985. Under the program as implemented by the Secretary of Agriculture, certain dairy producers who cross-breed their dairy cows with beef bulls and sell these calves for feed-

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ing as beef cattle are having their dairy production base unfairly reduced by as much as 20,000 pounds of milk equivalent per head sold. The bill will address the need to clarify that these calves are to be considered as beef cattle for the purposes of determining a dairy producer's base for purposes of the program.

The bill also provides the Department of Agriculture with authority to issue regulations to allow dairy producers to present evidence to the Department that certain cattle are used only for beef production or other non-dairy purposes.

## SECTION-BY-SECTION ANALYSIS

### SECTION 1

Section 1 provides that the bill may be cited as the "Farm Programs Adjustment Act of 1986".

### SECTION 2

Section 2, which may be cited as the "Nonprogram Crop Amendments Act of 1986", will amend the provisions of sections 107D(c), 105C(c), 103A(c) and 101A(c) of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that permit producers of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, respectively, to receive target price payments on permitted acreage that the producer puts in conservation use or that he plants to crops other than the program crop involved.

Currently, the farmer can plant up to 50 percent of his permitted wheat, feed grain, upland cotton, or rice acreage to any crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans and still receive his program crop target price payment on 92 percent of the permitted acreage. In cases in which the farmer's land is quarantined from the production of the program crop, the rule that he must plant at least 50 percent of the permitted acreage of the program crop can be waived.

Section 2 will revise these so-called "underplanting" rules under the Agricultural Act of 1949 to restrict the authority for farmers to plant other crops on the permitted acreage. Specifically, the planting of the acreage to any nonconserving crop would not be permitted as a general rule. However, section 2 will add language to sections 107D(c), 105C(c), 103A(c), and 101A(c) to give the Secretary of Agriculture authority to allow such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under the Agricultural Act of 1949, i.e., wheat, feed grains, cotton, rice, soybeans, peanuts, tobacco, sugar beets, and sugarcane), subject to the following restrictions: the Secretary could permit such acreage to be devoted to such production only if the Secretary determines them—

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(1) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely particularly with respect to producers of commodities the prices of which are not supported under the Agricultural Act of 1949; and

(2)(a) the production is needed to provide an adequate supply of the commodity, or

(b) with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material to the long-term benefit of United States industry.

However, the added language also provides that, with respect to any producer of the 1986 crop of wheat, feed grains, upland cotton, or rice who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted acreage for the commodity to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary would have to waive any restriction on the planting of such crop for harvest in 1986 on such producer's permitted acreage to the extent the Secretary determines necessary to ensure the fair and equitable application of such restrictions. The producer would have to provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of the commodity involved. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for such a waiver would have to repay immediately the amount of the payment for such crop received under the "underplanting" rules, plus interest thereon in such amount as the Secretary prescribes by regulation. The penalty would be in addition to any other penalty that could be imposed under any other provision of law.

Additionally, in prescribing terms and conditions governing grazing on permitted wheat acreage, as authorized under the added language, the Secretary would have to take into consideration practices allowed by the Department of Agriculture, under previous wheat programs, with respect to grazing on acreage planted to wheat prior to the disposition date for the crop involved.

SECTION 3

Section 3 will amend the provisions of section 107D(f)(5)(B) of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that require the Secretary of Agriculture to make diversion payments available to producers of the 1986 crop of wheat who plant the crop prior to the announcement by the Secretary of the terms of the acreage limitation program for the crop.

Currently, under this paid diversion program, the Secretary will make the payments available to any such producer who devotes to conserving uses an amount of wheat acreage equal to 10 percent of the producer's wheat acreage base, in addition to any acreage required to be taken out of wheat production under the combined

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wheat acreage limitation and paid diversion program applicable to all wheat producers.

The amendment to section 107D(F)(5)(B) made by section 3 will give wheat producers who plant prior to the program announcement the option to receive diversion payments on 5 percent of the base instead of 10 percent of the base.

SECTION 4

Section 4 will amend section 201(d)(3)(A) of the Agricultural Act of 1949 (as revised by the Food Security Act of 1985), which requires the Secretary of Agriculture to implement a milk production termination program for the 18-month period beginning April 1, 1986.

The amendment made by section 4 will add a provision to require the Secretary to receive and consider all offers submitted to the Secretary before April 1, 1986, by producers who seek to enter into contracts under the program.

SECTION 5

Section 5 also will amend section 201(d)(3)(A) of the Agricultural Act of 1949 to provide new rules applicable to the use of marketing histories under the milk production termination program.

Specifically, the new rules provide that, for the purposes of the program, a producer's marketing history will be—

(1) in the case of any producer who participated in the milk diversion program under section 201(d)(3) as in effect before the date of enactment of the Food Security Act of 1985, either the marketing history chosen by such producer under such diversion program but without counting twice the January through March quarter of any year, or the marketings of milk by such producer for commercial use during calendar year 1985, whichever such producer chooses for the purpose of participating in the milk production termination program under the bill; and

(2) in the case of any other producer, the marketings of milk by such producer for commercial use either during the 12-month period beginning July, 1984, or during calendar year 1985, whichever quantity is less.

For purposes of evaluating each offer by a producer to enter into contract for payments under the program, and in determining the amount of payment due to a producer under any such contract to the extent such payment is based on marketing history, the Secretary could not take into consideration any marketings of milk other than the marketing history of such producer as specified in the preceding sentence.

The amendment made by section 5 will take effect, retroactively, on December 23, 1985.

SECTION 6

Section 6 also will amend section 201(d)(3)(A) of the Agricultural Act of 1949, to add new provisions as follows:

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In determining whether to make reductions in a milk producer's dairy production base for the purposes of the milk production termination program, the Secretary of Agriculture could not consider cattle transferred by the producer, during the period beginning January 1, 1986, and ending on the date the producer enters into a contract to participate in the program, as dairy cattle if such cattle are the progeny of dairy and beef cattle and are intended for beef production or other purposes not related to milk production. The Secretary would have to prescribe such regulations as are necessary to allow producers to provide evidence to establish that cattle are intended for beef production or other purposes not related to milk production.

## COMMITTEE CONSIDERATION

### HEARING

On Wednesday, February 19, 1986, the Agriculture Subcommittee on Wheat, Soybeans, and Feed Grains, held a public hearing on H.R. 4078, H.R. 4079, and H.R. 4166.

These three bills were designed to discourage or prohibit the use of acreage taken out of grain, cotton, and rice production for the purposes of planting and producing dry edible beans, potatoes, fruits and vegetables, popcorn, hay and other so-called nonprogram crops. These bills would prevent the potential overproduction of such nonprogram crops, which in turn would eliminate any adverse effect on the economics of production of these crops.

Testifying in support of the bills were: The Honorable Richard Stallings, Member of Congress from Idaho; the Honorable Bob Traxler, Member of Congress from Michigan, the Honorable Virginia Smith, Member of Congress from Nebraska; and the Honorable Byron Dorgan, Member of Congress from North Dakota. The Honorable Tony Coelho, Member of Congress from California, entered a statement in support of H.R. 4166. In addition, Mr. John C. Datt, Executive Director, American Farm Bureau Federation; Mr. Doug Michael, Immediate Past President, National Potato Council; Mr. John Connolly, Washington Representative, Western Growers Association; Mr. Chips Barlow, Secretary-Treasurer, National Dry Bean Council; Mr. Harold Wilson, Director, National Dry Bean Council, Western Bean Dealers Association; Mr. Fred Erhman, Immediate Past President, Nebraska Bean Growers; Mr. Gary L. Kelly, Kelley Bean Company; Mr. James E. Byrum, Executive Secretary, Michigan Bean Commission; Mr. Eric Bailey, Bailey Farms; Mr. Einer Thorlund, Michigan bean producer; and Mr. Richard Fugleberg, President, North Harvest Bean Growers Association, testified in support of the bills. Also testifying on the bills was, Mr. William C. Bailey, Deputy Administrator from Program Planning and Development, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

Generally, those who supported the concept of the bills did so on the basis that it is inequitable and unfair that producers of program crops under the authority of the Food Security Act of 1985 are to be reimbursed by the Federal Government for not seeding

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program crops on their permitted acreage while at the same time they are permitted to plant nonprogram crops including dry edible beans, potatoes, fruits and vegetables, and hay on these underseeded acres. The concern of the witnesses was that allowing nonprogram crop production on these underseeded acres will result in the increased production of nonprogram crops, which in turn would have an adverse economic effect on the producers of the nonprogram crops. Many witnesses made the point that it is unfair for producers of program crops to receive a Federal subsidy that will enable them to compete directly with nonprogram crop producers.

There were no witnesses testifying against the adoption of these bills. The Department of Agriculture raised a temporary objection that subsequently was withdrawn.

## Subcommittee Markup

The Subcommittee on Wheat, Soybeans, and Feed Grains met on Wednesday, February 19, 1986, to consider H.R. 4078, H.R. 4079, and H.R. 4166. Subcommittee Chairman Tom Foley called the meeting to order and asked for the bills to be considered en bloc because of their similarity. Without objection, the Subcommittee agreed to consider the bills en bloc.

H.R. 4166, the Nonprogram Crop Amendments of 1986, would amend provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that permit a producer of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to receive target price payments on permitted acreage that he (1) puts in conservation use or (2) plants to crops other than the program crop involved.

Under the 1985 Act, the farmer can plant up to 50 percent of his permitted wheat, feed grain, upland cotton, or rice acreage to any crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans and still receive his program crop target price payment on 92 percent of the permitted acreage. In cases in which the farmer's land is quarantined from the production of the program crop, the rule that he must plant at least 50 percent of the permitted acreage to the program crop can be waived.

H.R. 4166 would revise these so-called "underplanting" rules under the 1985 Act to delete (except with respect to quarantined acreage) the part of the rules that allows farmers to plant other crops on the permitted acreage. Under the bill, the farmer could only receive target price payments if the acreage not planted to the program crop is devoted to conservation uses.

H.R. 4079, the Nonprogram Crop Amendments of 1986, would amend the provisions of the Agricultural Act of 1949 (as added by the Food Security Act of 1985) that permit a producer of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to receive target price payments on permitted acreage that he puts in conservation use or that he plants to crops other than the program crop involved.

H.R. 4079 would revise the so-called "underplanting" rules under the 1985 Act to enable the Secretary of Agriculture to prohibit farmers from planting other crops on the permitted acreage. Specifically, the Secretary could prohibit the planting of any other com-

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modity the production of which the Secretary determines would increase as a result of the "underplanting" rules so as to adversely affect the income of producers of that commodity.

H.R. 4078, the Dry Edible Beans Amendments of 1986, would amend the provisions of the Agricultural Act of 1949 (as added by the Food Secruity Act of 1985) that permit a producer of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to receive target price payments on permitted acreage that he put in conservation use or that he plants to crops other than the program crop involved.

H.R. 4078 would revise the so-called "underplanting" rules under the 1985 Act to prohibit, in addition, the planting of dry edible beans on permitted acreage.

After some discussion, Mr. Foley suggested that the Subcommittee might wish to include language to cover all nonprogram crops, not just dry edible beans. Mr. Foley explained that language could be used that would track other provisions of law relating to acreage reduction programs. Mr. Evans of Iowa suggested that language be added to allow producers to grow certain new agricultural crops which could yield industrial raw materials.

Mr. Foley agreed that the proposal should be considered and read a draft proposal blending his original ideas with Mr. Evans' approach. Members of the Subcommittee discussed the Foley proposal. During the discussion, the Agriculture Department representative advised the Subcommittee that the Department did not oppose the enactment of either H.R. 4078 or H.R. 4079.

Members of the Subcommittee suggested that H.R. 4079 be amended to reflect the desires of the Subcommittee expressed in the discussion of the bills. Staff was directed to draft language to meet the intentions of the Members. By voice vote, the Subcommittee agreed to have H.R. 4079 redrafted.

Mr. Volkmer moved that H.R. 4079, as amended, be reported favorably to the Agriculture Committee.

The Subcommittee agreed to the Volkmer motion by show of hands, 14 yeas, and 2 nays.

### Full Committee Markup

The Committee on Agriculture met on Wednesday, February 26, 1986, to consider H.R. 4079, as amended and reported by the Subcommittee on Wheat, Soybeans, and Feed Grains. Mr. Foley, Chairman of the Subcommittee, briefly explained that the bill would limit the authority for producers to plant nonprogram crops on underplanted acres. Mr. Panetta spoke in support of the bill as reported, and asked Mr. Foley to clarify that the provisions allowing nonprogram crop plantings was taken from certain standard acreage reduction provisions. Mr. Foley agreed that the language has been previously used in set-aside provisions. Mr. Foley also confirmed that the Secretary of Agriculture must consider the possible adverse effect on farm income for producers of the nonprogram crops before producers may be allowed to grow these crops on the underplanted acres.

Mr. Schuette emphasized that the protection of farm income must be crop specific. Mr. Foley suggested that a clarifying amend-

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ment be added to make sure that the meaning of crop income include the farm income of nonprogram crop producers. The Committee agreed, without objection, to the Foley proposal.

Mr. Marlenee raised a question about the authority of producers to hay and graze on the underplanted acres. Mr. Foley said that he would not want to authorize haying and grazing any more than what exists under current practice.

Mr. Foley asked for unanimous consent to allow the staff to correct the language of the bill as it relates to haying and grazing to reflect that criterion. The Committee agreed, without objection, to the Foley motion.

Mr. Stenholm offered an amendment to allow producers that have already planted, or with preexisting contracts to plant, nonprogram crops on their underplanted acres to continue with those plans. Members of the Committee agreed that the amendment should only apply to firm contracts, and only for the 1986 crop. Members of the Committee also agreed that the fraud provisions of the amendment should be in addition to any other penalty that may be made under existing law. The Committee agreed, by voice vote, to the amendment, as amended, offered by Mr. Stenholm.

Chairman de la Garza clarified that the authority for the Secretary to allow the planting of commodities "with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production of which is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of the United States" would include crops grown for experimental and other purposes, such as kenaf, guayule, cuphea, and jojoba.

Chairman de la Garza asked that clarification be made for what is a nonprogram crop. The Chairman argued that commodities such as peanuts are not one of the major program crops but they should not be grown on the underplanted acres. Members of the Committee generally agreed that any crop supported by a Federal price support program should not be considered a nonprogram crop. The Committee agreed, without objection, for the staff to draft language to address the nonprogram crop definition problem.

Mr. Smith offered an amendment to provide that producers of the 1986 crop of winter wheat, who currently are eligible for a 10 percent paid acreage diversion in addition to other required acreage reductions, to choose the original 10 percent extra cutback or a 5 percent paid reduction. The Committee agreed, by voice vote, to the Smith amendment.

Mr. Stangeland offered an amendment to make certain changes in the dairy program as authorized in the Food Security Act of 1985. Mr. Stangeland explained that the amendment would extend the period for producers to submit bids for the milk production termination program, and define marking history for the purpose of evaluating bids under the milk production termination program. Mr. Gunderson and Mr. Jeffords spoke in support of the amendment. The Committee agreed by voice vote to the Stangeland amendment.

Mr. Coelho offered an amendment to clarify that calves crossbred for beef purposes will not be considered for purposes of ana-

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lysing bids submitted under the dairy termination program. The Committee agreed by voice vote to the Coelho amendment.

Mr. Coelho stated that the Secretary should be required to give specific and special consideration to allow the planting of crops on land that has been removed from production due to a quarantine requirement. The Committee agreed, without objection, with Mr. Coelho's interpretation relating to quarantined acreage.

The Committee agreed by recorded vote, 40 yeas and no nays, to report H.R. 4079, as amended, to the House with recommendation that the bill do pass.

### Administration Position

At the time of the filing of this report, the Committee had not received a report from the U.S. Department of Agriculture concerning H.R. 4079, as amended. The views of the Administration are reflected in the Committee consideration section of this report.

### Budget Act Compliance (Section 308 and Section 403)

The provisions of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 were not received by the Committee prior to the filing of this report. The Committee was advised that it is anticipated that such an estimate and comparison will be available prior to consideration of the bill on the Floor of the House.

The Committee has prepared an estimate of the budget impact of H.R. 4079, which amends the provisions relating to underplanting on permitted acreage, the paid acreage diversion provisions for the 1986 crop of winter wheat, and the dairy herd termination provision of the Food Security Act of 1985.

The underplanting provision would restrict producers from raising nonprogram crops on acres idled in excess of the amount required to participate in commodity programs. Currently, participating producers may raise nonprogram crops on a portion of their program crop base and still receive deficiency payments. It is estimated that this change would cause an increase in the production of program crops resulting in higher CCC outlays totaling $370 million over the six-year period.

The bill also provides winter wheat producers with an option to idle 5 or 10 percent of their 1986 crop acreage in exchange for cash payments. Current law provides only the 10 percent option. This change will permit winter wheat producers who, during fall 1985 planting, reduced their acreage 30 percent in anticipation of 1986 commodity legislation and program announcements to receive payments on the additional 5 percent that was idled beyond the 25 percent reduction required for program eligibility. It is estimated this change would increase cash diversion payments, raising fiscal year 1986 outlays by $50 million.

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No estimate can be made at this time of the budget impact of changing the base period of the dairy termination program; extending signup for the program from March 7 until April 1; or exempting cross-bred, dairy-beef animals that are sold for beef from calculations of a producer's milk production base.

The table below shows our estimate of the effects of the bill on Commodity Credit Corporation (CCC) outlays during fiscal years 1986 through 1991.

ESTIMATED EFFECTS ON COMMODITY CREDIT CORPORATION OUTLAYS

*Revise paid diversion program and underplanting provisions*

[By fiscal years, in millions of dollars]

| | |
|---|---|
| 1986 | 65 |
| 1987 | 90 |
| 1988 | 85 |
| 1989 | 70 |
| 1990 | 60 |
| 1991 | 50 |
| 1986-91 | 420 |

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2 (l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 4079, as amended, will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 4079, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

THE AGRICULTURAL ACT OF 1949

SEC. 101A. Notwithstanding any other provision of law—

* * * * * * *

(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of rice in an amount computed by multiplying—

(i) the payment rate; by

(ii) the individual farm program acreage; by

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(iii) the farm program payment yield established for the crop for the farm.

(B)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of rice and the producers on a farm devote a portion of the permitted rice acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 percent of the permitted rice acreage of the farm for the crop to conservation uses [or nonprogram crops] *(except as provided in subparagraph (G))*—

(I) such portion of the permitted rice acreage in excess of 8 percent of such acreage devoted to conservation uses [or nonprogram crops] *(except as provided in subparagraph (G))* shall be considered to be planted to rice for the purpose of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

(ii) To be eligible for payments under clause (i), except as provided in clause (iii), the producers on the farm must actually plant rice for harvest on at least 50 percent of the permitted rice acreage of the farm.

(iii) If a State or local agency has imposed in an area of a State or county a quarantine on the planting of rice for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of rice for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. [To be eligible for payments under this clause, such producers may not plant wheat, feed grains, cotton, or soybeans on such acreage]. To be eligible for payments under this clause, such producers must devote such acreage to conservation uses except as provided in subparagraph (6).

"(iv) The rice crop acreage base and rice farm program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses [or nonprogram crops] *except as provided in subparagraph (6).*

* * * * * * *

[(G) As used in this subsection, the term "nonprogram crop" means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.]

*(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to*

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*sweet sorgum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this act), subject to the provisions of the following sentence and clause (ii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—*

*(I) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and*

*(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.*

*(ii) Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of rice who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted rice acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crops for harvest in 1986 on such producer's permitted rice acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of rice. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for a waiver under this clause shall repay immediately the amount of any payment for such crop received under subparagraph (B), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be in addition to any other penalty that may be imposed under any other provision of law.*

* * * * * * *

SEC. 103A. Notwithstanding any other provision of law:

* * * * * * *

(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of upland cotton in an amount computed by multiplying—

(i) the payment rate; by

(ii) the individual farm program acreage; by

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(iii) the farm program payment yield established for the crop for the farm.

(B)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of upland cotton and the producers on a farm devote a portion of the permitted upland cotton acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 pecent of the permitted upland cotton acreage of the farm for the crop to conservation uses [or nonprogram crops] *(except as provided in subparagraph (6))*—

(I) such portion of the permitted upland cotton acreage in excess of 8 percent of such acreage devoted to conservation uses [or nonprogram crops] shall be considered to be planted to upland cotton for the purpose of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

(ii) To be eligible for payments under clause (i), except as provided in clause (iii), the producers on the farm must actually plant upland cotton for harvest on at least 50 percent of the permitted upland cotton acreage of the farm.

(iii) If a State or local agency has imposed in an area of a State or country a quarantine on the planting of upland cotton for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of upland cotton for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. [To be eligible for payments under this clause, such producers may not plant wheat, feed grains, rice, cotton, or soybeans on such acreage.] *To be eligible for payments under this clause such producers must devote such acreage to conservation uses except as provided in subparagraph (6).*

(iv) The upland cotton crop acreage base and upland cotton farm program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses [or nonprogram crops] *(except as provided in subparagraph (6)).*

* * * * * * *

[(G) As used in this subsection, the term 'nonprogram crop' means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.]

*(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to*

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*sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, Sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this Act), subject to the provisions of the following sentence and clause (ii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—*

*(I) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and*

*(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.*

*(ii) Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of upland cotton who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted upland cotton acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crops for harvest in 1986 on such producer's permitted upland cotton acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of upland cotton. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for a waiver under this clause shall repay immediately the amount of any payment for such crop received under subparagraph (B), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be in addition to any other penalty that may be imposed under any other provision of law.*

* * * * * * *

SEC. 105c. Notwithstanding any other provision of law—

* * * * * * *

(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of corn, grain sorghums, oats, and if designated by the Secretary, barley, in an amount computed by multiplying—

(i) the payment rate; by

(ii) the individual farm program acreage for the crop; by

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(iii) the farm program payment yield for the crop for the farm.

(B)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of feed grains and the producers on a farm devote a portion of the permitted feed grain acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 percent of the permitted feed grain acreage of the farm for the crop to conservation uses [or nonprogram crops] *(except as provided in subparagraph (I))*

(I) such portion of the permitted feed grain acreage of the farm in excess of 8 percent of such acreage devoted to conservation uses [or nonprogram crops] *(except as provided in subparagraph (I))* shall be considered to be planted to feed grains for the purpose of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

(ii) To be eligible for payments under clause (i), except as provided in clause (iii), the producers on the farm must actually plant feed grains for harvest on at least 50 percent of the permitted feed grain acreage of the farm.

(iii) If a State or local agency has imposed in an area of a State or county a quarantine on the planting of feed grains for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of feed grains for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. [To be eligible for payments under this clause, such producers may not plant wheat, cotton, rice, or soybeans on such acreage]. *To be eligible for payments under this clause such producers must devote such acreage to conservation uses except as provided in subparagraph (I)*

(iv) The feed grain crop acreage base and feed grain program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses [or nonprogram crops] *(except as provided in subparagraph (I))*

* * * * * * *

[(I) As used in this paragraph, the term "nonprogram crop" means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.]

*(I)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to*

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*sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this Act), subject to the provisions of the following sentence and clause (ii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—*

*(I) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and*

*(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.*

*(ii) Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of feed grains who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted feed grain acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crops for harvest in 1986 on such producer's permitted feed grain acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of feed grains. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to quality for a waiver under this clause shall repay immediately the amount of the payment for such crop received under subparagraph (B), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be in addition to any other penalty that may be imposed under any other provision of law.*

* * * * * * *

SEC. 107D. Notwithstanding any other provision of law:

* * * * * * *

(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of wheat in an amount computed by multiplying—

(i) the payment rate; by

(ii) the individual farm program acreage for the crop; by

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(iii) the farm program payment yield for the crop for the farm.

(B) Payments for any such crop for which marketing quotas are in effect shall not exceed an amount equal to the payment rate multiplied by the farm marketing quota.

(C)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of wheat and the producers on a farm devote a portion of the permitted wheat acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 percent of the permitted wheat acreage of the farm for the crop to conservation uses [or nonprogram crops] *(except as provided in subparagraph (k))*—

(I) such portion of the permitted wheat acreage of the farm in excess of 8 percent of such acreage devoted to conservation uses [or nonprogram crops] *(except as provided in subparagraph (k))* shall be considered to be planted to wheat for the purposes of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

(ii) To be eligible for payments under clause (i), except as provided in clauses (iii) and (vii), the producers on the farm must actually plant wheat for harvest on at least 50 percent of the permitted wheat acreage of the farm.

(iii) If a State or local agency has imposed in an area of a State or county a quarantine on the planting of wheat for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of wheat for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. [To be eligible for payments under this clause, such producers may not plant feed grains, cotton, rice, or soybeans on such acreage.] *To be eligible for payments under this clause, such producers must devote such acreage to conservation uses except as provided in subparagraph (k).*

(iv) The wheat crop acreage base and wheat farm program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses [or nonprogram crops] *(except as provided in subparagraph (k)).*

* * * * * * *

[(K) As used in this paragraph, the term "nonprogram crop" means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.]

*(K)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage oth-*

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*erwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (C) to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity (including commodities for which no substantial domestic production or market exists but that could yield industrial raw material now being imported, or likely to be imported, into the United States and commodities grown for experimental purposes, but not including commodities the prices of which are supported under this Act), subject to the provisions of the following sentence and clauses (ii) and (iii). The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—*

*(I) the production is not likely to increase the cost of the price support programs and will not affect farm income adversely, particularly with respect to producers of commodities the prices of which are not supported under this Act; and*

*(II) the production is needed to provide an adequate supply of the commodity, or with respect to such commodities for which no substantial domestic production or market exists but that could yield industrial raw material, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.*

*(ii) Notwithstanding the foregoing provisions of this subparagraph, with respect to any producer of the 1986 crop of wheat who, prior to February 19, 1986, planted or contracted to plant a portion of the producer's permitted wheat acreage to a crop other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans for harvest in 1986, the Secretary shall waive any restriction on the planting of such crop for harvest in 1986 on such producer's permitted wheat acreage under the foregoing provisions of this subparagraph to the extent the Secretary determines necessary to ensure the fair and equitable application of such provisions. The producer shall provide adequate proof, as determined by the Secretary, of such prior planting or contract to plant at the time the producer enters into an agreement with the Secretary to participate in the program for the 1986 crop of wheat. Any producer who knowingly submits false information, or otherwise fails to meet requirements imposed by the Secretary, to qualify for a waiver under this clause, shall repay immediately the amount of the payment for such crop received under subparagraph (C), plus interest thereon in such amount as the Secretary shall prescribe by regulation. Such penalty shall be in addition to any other penalty that may be imposed under any other provision of law.*

*(iii) In prescribing terms and conditions governing grazing, as provided for under this subparagraph, the Secretary shall take into consideration practices permitted by the Department of Agriculture under the program for the 1985 and previous crops of wheat, with respect to grazing on acreage planted to wheat prior to the disposition data for the crop involved.*

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(f) (5) * * *

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(B)(i) Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1986 crop of wheat for producers who plant the 1986 crop of wheat before the announcement by the Secretary of the wheat acreage limitation program for that crop under which the Secretary shall make crop retirement and conservation payments to any such producer of the 1986 crop of wheat who—

(I) reduces the acreage on the farm planted to wheat for harvest so that it does not exceed the wheat crop acreage base for the farm less an amount equivalent to [10 percent] *5 percent (at the option of the producer)* of the wheat crop acreage base (in addition to any reduction required under paragraph (2)); and

(II) devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat crop acreage base under this paragraph.

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SEC. 201 (d)(3) * * *

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(A)(i) The Secretary shall establish and carry out under this paragraph a milk production termination program for the 18-month period beginning April 1, 1986.

(ii) Under the milk production termination program required under this subparagraph, the Secretary, at this request of any producer of milk in the United States who submits to the Secretary a bid, may offer to enter into a contract with the producer for the purpose of terminating the production of milk by the producer in return for a payment to be made by the Secretary. *In carrying out the milk production termination program, the Secretary shall receive and consider all offers submitted to the Secretary before April 1, 1986, by producers who seek to enter into contracts under the program.*

(iii) For the 18-month period for which the milk production termination program under this subparagraph is in effect, the Secretary shall—

(I) as soon as practicable, determine the total number of dairy cattle the Secretary estimates will be marketed for slaughter as a result of such program; and

(II) by regulation specify marketing procedures to ensure that greater numbers of dairy cattle slaughtered as a result of the production termination program provided for in this section shall be slaughtered in each of the periods of April through August 1986, and March through August 1987 than for the other months of the program. Such procedures also shall ensure that such sales of dairy cattle for slaughter shall occur on a basis estimated by the Secretary that maintains historical seasonal marketing patterns. During such 18-month period, the Secretary shall limit the total number of dairy cattle marketed for slaughter under the program in excess of

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the historical dairy herd culling rate to no more than 7 percent of the national dairy herd per calendar year.

(iv) Each contract made under this subparagraph shall provide that—

(I) the producer shall sell for slaughter or for export all the dairy cattle in which such producer owns an interest;

(II) during a period of 3, 4, or 5 years, as specified by the Secretary in each producer contract and beginning on the day the producer completes compliance with subclause (I), the producer neither shall acquire any interest in dairy cattle or in the production of milk nor acquire, or make available to any person, any milk production capacity of a facility that become available because of compliance by a producer with such subclause unless the Secretary shall by regulation otherwise permit; and

(III) if the producer fails to comply with such contract, the producer shall repay to the Secretary the entire payment received under the contract, including simple interest payable at a rate prescribed by the Secretary, which shall, to the extent practicable, reflect the cost to the Corportion of its borrowings from the Treasury of the United States, commencing on the date payment is first received under such contract.

(v) Any producer of milk who seeks to enter into a contact for payments under this paragraph shall provide the Secretary with (I) evidence of such producer's marketing history; (II) the size and composition of the producer's dairy herd during the period the marketing history is determined; and (III) the size and composition of the producer's dairy herd at the time the bid is submitted, as the Secretary deems necessary and appropriate. *For purposes of this subparagraph, a producer's marketing history shall be—*

*(I) in the case of any producer who participated in the milk diversion program under this paragraph as in effect before the date of enactment of the Food Security Act of 1985, either the marketing history chosen by such producer under such diversion program but without counting twice the January through March quarter of any year, or the marketings of milk by such producer for commercial use during calendar year 1985, whichever such producer chooses for the purpose of participating in the milk production termination program under this subparagraph; and*

*(II) in the case of any other producer, the marketings of milk by such producer for commercial use either during the 12-month period beginning July, 1984, or during calendar year 1985, whichever quantity is less.*

*For purposes of evaluating each offer by a producer to enter into a contract for payments under this subparagraph, and in determining the amount of payment due to a producer under any such contract to the extent such payment is based on marketing history, the Secretary may not take into consideration any marketings of milk other than the marketing history of such producer as specified in the preceding sentence.*[1]

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[1] This provision will take effect on Dec. 23, 1985.

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(vi) Except as provided in subparagraph (D), no producer who commenced marketing of milk in the 15-month period ending March 31, 1986, shall be eligible to enter into a contract for payments under this subparagraph.

(vii) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned by the estate of such producer.

*(viii) In determining whether to make reductions in a milk producer's dairy production base for the purposes of the milk production termination program under this subparagraph, the Secretary may not consider cattle transferred by the producer, during the period beginning January 1, 1986, and ending on the date the producer enters into a contract to participate in the program, as dairy cattle if such cattle are the progeny of dairy and beef cattle and are intended for beef production or other purposes not related to milk production. The Secretary shall prescribe such regulations as are necessary to allow producers, for the purposes of this clause, to provide evidence to establish that cattle are intended for beef production or other purposes not related to milk production.*

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